

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE ROTAVIRUS VACCINES  
ANTITRUST LITIGATION

No. 2:18-cv-01734 (consolidated)

**NOTICE OF VOLUNTARY DISMISSAL PURSUANT TO F.R.C.P. 41(a)(1)(A)(i)**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiffs Sugartown Pediatrics, LLC (“Sugartown”), Schwartz Pediatrics S.C. (“Schwartz”), and Margiotti & Kroll Pediatrics, P.C. (“M&K”) hereby give notice that this action is voluntarily dismissed. Defendant Merck Sharpe & Dohme Corp. has not served an answer or motion for summary judgment in this action.<sup>1</sup> Accordingly, Plaintiffs notice voluntary dismissal of this action without prejudice. *See* Fed. R. Civ. P. 41(a)(1)(B).

Dated: February 7, 2023

Respectfully submitted,

/s/ Daniel H. Silverman

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<sup>1</sup> A motion to compel arbitration and stay proceedings is not the equivalent of an answer or a motion for summary judgment. *Hamilton v. Shearson-Lehman Am. Exp., Inc.*, 813 F.2d 1532, 1534 (9th Cir. 1987); *see also Rife v. McElwee-Courbis Const. Co.*, 16 F.R.D. 11, 13 (M.D. Pa. 1954).

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 7, 2023, the foregoing document was filed electronically and is available for viewing and downloading from the ECF system. Counsel of record was served via ECF.

/s/ Daniel H. Silverman

Daniel H. Silverman